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RUEHPE/AMEMBASSY LIMA 4809
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RUEHQT/AMEMBASSY QUITO 7091
RUEHSG/AMEMBASSY SANTIAGO 1859
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TAGS: [PGOV](#) [PREL](#) [KDEM](#) [PHUM](#) [PINR](#) [ENVR](#) [ASEC](#) [PTER](#) [BL](#)
SUBJECT: "COMMUNITARIAN JUSTICE" SPIRALING OUT OF CONTROL?

REF: LA PAZ 374

Classified By: A/EcoPol Chief Brian Quigley for reasons 1.4 (b, d)

¶1. (C) Summary: Following the March 7 ransacking of former Vice President Victor Hugo Cardenas' home and attack on his wife and family (reftel), provincial community leaders declared March 10 they would formally expropriate the property and claimed the new constitution explicitly justified their actions. Community leaders forbade police or government investigators from entering the property, citing their right to "communitarian justice." A Cardenas campaign insider tells us ruling Movement Toward Socialism party (MAS) congressman Gustavo Torrico was the main organizer and financier of the attack and that it "surely had the knowledge and approval of the President and Vice President." However, in an about-face from earlier comments and perhaps sensing the potential for land seizures to spiral out of control, Vice President Alvaro Garcia Linera and other MAS leaders on March 11 rejected the attack and ordered it to stop. Post worries that the MAS may not be able to control this new application of communitarian justice. End summary.

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Illegal Becomes Legal Under the New Constitution
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¶2. (SBU) Selectively quoting the newly-passed constitution, rural community leaders in Omasuyos on March 10 declared their right under poorly-defined traditions of "communitarian justice" to seize the home of former Vice President Victor Hugo Cardenas and barred any police or government investigators from entering the province, much less the house itself. According to a resolution approved by regional leaders, the decision to take the property was done because Cardenas campaigned against the approval of the new constitution, which "damaged the dignity, ideology, and policies of the Aymara community." The resolution further stated that as Vice President, Cardenas "was complicit in the auctioning off of strategic businesses and delivering into the hands of transnational businesses Bolivia's renewable and non-renewable resources."

¶3. (SBU) The leaders cited Articles 190, 191, and 192 of the constitution in justifying their actions, which together

state that indigenous communities have the right to apply their own cultural norms, that members of such communities will be bound by any judgments reached, and that the state will respect the community's judgments. (Note: The constitution also states that such "communitarian justice" may not violate the constitution, including freedom of speech, the right to private property, and the inviolability of the home from forced entry. End note.) MAS-affiliated leader Justino de la Cruz also said the Cardenas property was not "fulfilling a social function," which made it eligible for public seizure according to Article 56 of the constitution. Responding to the fact that there are neither legal definitions as yet of the term "social function," nor procedures for legally expropriating properties under the new constitution, MAS congressman Leandro Chacullaca announced he would present a specific law "expropriating the home of the ex-Vice President, as it serves a necessary public function."

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Community to Government: Stay Out
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¶4. (SBU) De la Cruz further declared the province of Omasuyos to be outside the jurisdiction of the central government and said that "from this date forward, no one will enter, neither an investigator nor a member of the police, (although) they do desire to investigate. Omasuyos has its own investigator, its own (unofficial) police force, and they have the right to investigate in their own territory. Those investigators that wish to enter should read Articles 190, 191, and 192 of the constitution." The resolution passed by regional leaders reiterates this statement and further directs that "no one should hold discussions with the oral or written press, nor the (state) legal authorities."

¶5. (SBU) Notwithstanding this declaration, Attorney General (equivalent) Mario Uribe ordered district attorney Jorge Gutierrez to start an investigation. Gutierrez said he did not know when he would decide to send police to recover the property.

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MAS Directs Violence, Cardenas Takes Advantage
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¶6. (C) Opposition Alternate Senator and Cardenas backer Toto Loayza said MAS Congressman Gustavo Torrico was the main organizer and financier of the attack and that it "surely had the knowledge and approval of the President and Vice President." Loayza said the vast majority of the crowd was imported from neighboring communities in the Lake Titicaca region. He estimated only 20 percent of the small town participated and then only because they were threatened and/or paid. He reported that many people told Cardenas local MAS and union leaders had threatened them or else &their houses would be next.⁸

¶7. (C) Although he condemned the violent seizure of the property, Loayza also said Cardenas was playing the situation for all it was worth, and perhaps too much so. In his opinion, if the government conducts an investigation, they will find that Cardenas was well aware the attack was coming and left his family to fend for themselves, and that he planted a TV cameraman across the street the day before. Loayza said Cardenas would be wise to let the "victim impression⁸ linger instead of revisiting the issue.

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MAS Opens Pandora's Box?
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¶8. (U) After initially issuing a raft of statements essentially blaming the victim (Cardenas) for bringing the home invasion upon himself, government leaders on March 11 made a complete about-face, rejected the ransacking of Cardenas' property, and ordered that it stop immediately. Vice President Alvaro Garcia Linera said, "The constitution contains absolute respect for private property. No one can

use the new constitution as an argument to attack private property." Regarding arguments that the property did not fulfil a social function, Vice Minister of Lands Sergio Almaraz clarified that the "social-economic function" would apply only to larger properties, and that Cardenas property was no larger than 300 square meters. In the Lake Titicaca area, he said, only properties larger than five hectares would be considered eligible for redistribution. (Note: With regard to "social-economic function," property size is not discussed in the constitution. Almaraz may be referring to existing implementing laws for the Law of Agrarian Reform (INRA). End note.)

¶9. (U) In news of another application of "communitarian justice," leading local daily La Razon reported March 12 that former Congress member and MAS party dissident Marlene Paredes made a formal statement that she had been expelled from her property in the Yungas valley area (Carmen de Chicalulu community) by MAS party followers. Showing several large bruises on her body, she said a large group had shown up on her property on March 3, accused her of being a traitor for leaving the MAS, beat her with sticks, and took over her property.

¶10. (SBU) Separately, on March 11 President of the Confederation of Eastern Bolivian Indigenous Communities (CIDOB) Alfredo Chavez announced that leaders of the country's 36 indigenous nations were going to "draft their own indigenous law" against those that had "destroyed" Santa Cruz's indigenous communities. "We are going to apply 'communitarian justice' on (Branko) Marinkovic and (Ruben) Costas... because they are responsible for the assault, taking, and destruction of our (community) centers."

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Comment
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¶11. (C) After President Morales initially called Cardenas a "traitor" and said "the pueblo doesn't stand for or pardon traitors," and after Garcia Linera said approvingly that the indigenous community was exacting long overdue revenge for Cardenas' past "traitorous acts," the government suddenly decided to stop the community takeover. Post believes the MAS has begun to see it may not be able to control copycat applications of "communitarian justice" now sprouting around the country. Violent property seizures and statements such as CIDOB President Chavez's do not square with what our indigenous contacts have typically described as "communitarian justice. End comment.

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